

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAMON CHAPPELLE,	:	
	:	
Plaintiff,	:	Civil Action - Law
	:	No. 11-0304
v.	:	
	:	(Judge Conner)
DAVID VARANO, JOHN DUNN,	:	
DEBORAH HERBST, MICHELLE	:	<i>Electronically Filed</i>
KODACK and RENEE FOULDS,	:	
Defendants	:	

**PLAINTIFF'S CONCURRED-IN MOTION TO EXCEED PAGE
LIMITATIONS AND ENLARGE TIME TO FILE HIS RESPONSE IN
OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT**

And now comes Plaintiff, Damon Chappelle, through undersigned counsel, and respectfully asks this Court to permit him to exceed the page limitations set forth in Local Rule 7.8(b) for his response brief in opposition to Defendants' motion for summary judgment and to enlarge by one week the time for him to file his response brief. In support of his motion, Plaintiff states the following:

1. Plaintiff filed this civil rights action under 42 U.S.C. § 1983 on February 11, 2011 against five defendants, who are all current or former employees of the Pennsylvania Department of Corrections (DOC).
2. In his Complaint, Plaintiff asserts that Defendants violated his Eighth Amendment rights based on his overdetection at SCI-Coal Township in 2009.
3. Fact discovery closed on September 10, 2012.
4. Defendants filed a motion for summary judgment, accompanied by a supporting brief and statement of material facts on September 24, 2012.
5. Defendants' brief asserts numerous arguments in support of dismissal of the claims against the five defendants in this case.
6. In responding to Defendants' summary judgment motion, Plaintiff must demonstrate, through reference to record evidence, that material facts are in dispute for each of his claims against Defendants.
7. The factual record is extensive and includes policies, procedures manuals, documents from Plaintiff's Department of Corrections file, as well as the deposition testimony of each Defendant, Plaintiff, and two non-party witnesses.
8. In addition to their merits arguments, Defendants assert collateral legal arguments for dismissal which Plaintiff must address in his response.

9. Plaintiff submits that in order to address the issues raised by Defendants adequately and to carry his burden of demonstrating the existence of disputed material facts, a brief in excess of fifteen pages is required.
10. Plaintiff therefore requests leave of Court to file a responsive brief of up to forty-five pages in length, exclusive of cover page, table of contents, table of authorities, and certificate of service.
11. Granting this motion to exceed page limitations will not prejudice Defendants, and Plaintiff believes it will aid the Court in its analysis and disposition of the issues.
12. Pursuant to Local Rules of Court, Plaintiff's Brief in Opposition to Defendants' Motion for Summary Judgment is due on or before October 15, 2012.
13. Due to the number of issues in Defendants' brief which need to be addressed, Plaintiff's counsel requests a one-week enlargement of time, until Monday, October 22, 2012, by which to file his response brief.
14. The requested enlargement of time is brief in duration; it will not prejudice Defendants' substantive rights; and it will not unduly delay the adjudication of this matter on the merits.
15. This motion is not intended to delay these proceedings but is intended, instead, to permit the issues to be fully presented to the Court.

16. Counsel for Defendants, Senior Deputy Attorney General Timothy P.

Keating, has concurred in this motion to exceed page limitations and to enlarge time.

WHEREFORE, Plaintiff respectfully requests that the Court permit him to file a responsive brief to Defendants' motion for summary judgment which does not exceed forty-five pages and to permit an enlargement of time of up to one week to file the responsive brief.

Respectfully submitted,

Date: October 11, 2012

s/ Jennifer J. Tobin

Jennifer J. Tobin

Attorney I.D. # PA 202047

PA Institutional Law Project

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Attorney for Plaintiff Damon Chappelle

CERTIFICATE OF SERVICE

I certify that on this date, a true and correct copy of the foregoing Plaintiff's Concluded-In Motion to Exceed Page Limitations and Enlarge Time to File His Response in Opposition to Defendants' Motion for Summary Judgment, along with all attachments, was electronically filed and is available for viewing and downloading from the Court's ECF system. In addition, a copy was served via the Court's ECF notification system on the following:

Timothy P. Keating
Senior Deputy Attorney General
Pennsylvania Office of the Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120

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Attorney for Defendants

Date: October 11, 2012

/s/ Jennifer J. Tobin

Jennifer J. Tobin

Pennsylvania Institutional Law Project